

REMARKS

The Office Action and the cited and applied reference has been carefully reviewed. No claim is allowed. Claims 1-14 and 19-32 presently appear in this application, with claims 1-14 and 19-30 being withdrawn from consideration by the examiner, and define patentable subject matter warranting their allowance. Reconsideration and allowance are hereby respectfully solicited.

Claims 15-18 have been rejected under 25 U.S.C. §112, second paragraph, as being indefinite. Claims 15-18 are cancelled and replaced by new claims 31 and 32, thereby obviating this rejection. New claims 31 and 32 avoid the indefiniteness issues raised by the examiner. The optional steps are specifically recited as being optional.

Claims 15-18 have been rejected under 35 U.S.C. §102(e) as being anticipated by McCasky Feazel et al. (U.S. Patent No. 6,100,030). This rejection is obviated by the cancellation of rejected claims 15-18 without prejudice. New claim 31 recites that the AFLP marker is from a microorganism or a human, as supported by the specification on page 24, lines 1-4. As microorganisms and humans are not disclosed as the source of AFLP markers in McCasky Feazel, the new claims are not anticipated by McCasky Feazel.

In re of Appln. No. 09/857,408

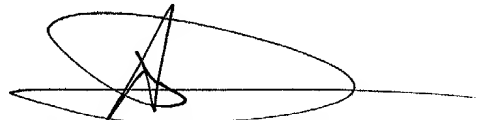
Furthermore, claim 31 recites that the AFLP marker is representative (indicative) of the presence or absence, or the state of an environmentally or genetically influenced or determined state or disease, as supported in the specification on page 23, lines 26-29. By contrast, McCasky Feazel discloses applications directed to DNA fingerprinting, mapping markers for genotyping, QTLs, disease resistance traits and marker assisted selection and neither discloses nor suggests comparing one individual or one species/genus in its different states or stages.

In view of the above, the claims comply with 35 U.S.C. §112 and define patentable subject matter warranting their allowance. Favorable consideration and early allowance are earnestly urged.

Respectfully submitted,

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